



ADMINISTRATIVE OFFICE OF THE
UNITED STATES COURTS

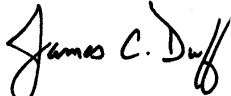
JAMES C. DUFF
Director

WASHINGTON, D.C. 20544

December 1, 2006

MEMORANDUM

To: Judges, United States Courts of Appeals
Judges, United States Bankruptcy Courts
Clerks, United States Courts of Appeals
Clerks, United States Bankruptcy Courts

From: James C. Duff 

RE: CHANGES TO MISCELLANEOUS FEE SCHEDULES FOR BANKRUPTCY COURTS AND
COURTS OF APPEALS (**INFORMATION**)

On September 19, 2006, the Judicial Conference approved several changes to the Bankruptcy Court Miscellaneous Fee Schedule and the Court of Appeals Miscellaneous Fee Schedule relating to implementation of the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 (BAPCPA) (Pub. L. No. 109-8) and the Deficit Reduction Act of 2005 (DRA) (Pub. L. No. 109-171).¹ The changes to these fees will become effective on January 1, 2007.

Attached are documents explaining the changes to the fees and revised fee schedules for the Courts of Appeals and the Bankruptcy Courts reflecting these amendments. Any questions should be directed to Mary Fritsche or Mary Louise Mitterhoff, Attorney Advisors, Bankruptcy Court Administration Division, (202) 502-1540.

Attachments

¹ Title X of the Deficit Reduction Act of 2005 raised certain appellate, civil, and bankruptcy fees. The Bankruptcy Court Miscellaneous Fee Schedule links the amount of the miscellaneous fees to reopen and split cases for adversary proceedings and for bankruptcy appeals and cross appeals to fees raised by the Act. At its March 2006 meeting, the Judicial Conference stayed the impending automatic increases to the Bankruptcy Court Miscellaneous Fee Schedule to provide an opportunity for the committees to study these increases and develop recommendations (JCUS-MAR 06, p. 14).

Changes to Bankruptcy Fees

Below are descriptions of the Judicial Conference actions regarding the Bankruptcy Court Miscellaneous Fee Schedule.

Item 6 - Adversary Filing Fee

- **Adversary Filing Fee to be de-linked from civil action filing fee; Adversary Filing Fee amount to remain \$250**

Item 6 of the Bankruptcy Court Miscellaneous Fee Schedule currently requires a fee for filing an adversary proceeding in the same amount as the filing fee prescribed in 28 U.S.C. § 1914(a) for instituting any civil action. The Deficit Reduction Act of 2005 (DRA) increased the civil action filing fee to \$350, effective April 9, 2006. The Judicial Conference, at its March 2006 session, stayed an increase in the adversary fee until the Committee on the Administration of the Bankruptcy System and the Committee on Case Administration and Management had reviewed the fee. After this review, the Judicial Conference, at its September 2006 session, amended Item 6 to remove the linkage to the civil action filing fee and to set the fee for filing an adversary proceeding at \$250.

Item 10 - Fee for Conversions

- **New fee for converting a case from a chapter with a lower filing fee to a chapter with a higher filing fee; fee to be the difference between the two filing fees**

The Conference also approved the creation of a new fee to be included in Item 10 of the Bankruptcy Court Miscellaneous Fee Schedule. This new fee, which will not apply to sua sponte conversions, will be assessed whenever the filing fee of the chapter to which a case is converted exceeds the filing fee of the chapter under which the case was initially filed.¹ This change allows for uniformity in fees and ensures that all debtors pay the same amount for the same type of cases and relief.² Therefore, the following fees will apply for conversion:

¹ Conversions to Chapter 11 from Chapter 7 or 13 are excluded from this new fee, as fees are assessed for these conversions pursuant to 28 U.S.C. § 1930(a).

² In the event that a case is converted to a chapter with a lower filing fee, however, no refund will be given.

- For converting a Chapter 13 case to a Chapter 7, a fee of \$25 will be charged. Item 10 currently requires a fee of \$15 for converting to a Chapter 7, and an additional \$10 - the difference between the Chapter 7 filing fee (\$245) and the Chapter 13 filing fee (\$235) - will be charged.
- For converting a Chapter 12 case to a Chapter 7 case, a fee of \$60 will be charged. Item 10 currently requires a fee of \$15 for converting to a Chapter 7, and an additional \$45 - the difference between the Chapter 7 filing fee (\$245) and the Chapter 12 filing fee (\$200) - will be charged.
- For converting a Chapter 12 case to a Chapter 13 case, a fee of \$35 - the difference between the Chapter 13 filing fee (\$235) and the Chapter 12 filing fee (\$200) - will be charged.

Item 11 - Reopening Fee

- **New fee to reopen a Chapter 15 case - same amount as Chapter 15 filing fee**
- **Expanded definitions for exemptions to reopening fee and clarification that exemption from the reopening fee for actions related to a discharge applies only in cases in two particular instances and only in cases in which a discharge was granted**
- **New \$15 fee to be collected when a Chapter 7 case is reopened**

Chapter 15 Reopening Fee

Item 11 of the Bankruptcy Court Miscellaneous Fee Schedule requires clerks to charge the statutory filing fees prescribed by 28 U.S.C. § 1930(a) to reopen a bankruptcy case.³ The filing fee for Chapter 15⁴ is a miscellaneous fee, and, because the language of the reopening fee references only statutory fees, no fee is currently charged for reopening a Chapter 15 case. The Judicial Conference amended Item 11 of the Bankruptcy Court Miscellaneous Fee Schedule to create a reopening fee for Chapter 15 cases equal to the Chapter 15 filing fee contained in Item 16 of the Bankruptcy Court Miscellaneous Fee Schedule as of the date of the request to reopen.

³ The fees set forth in § 1930(a) vary depending on the chapter of the Bankruptcy Code under which a case is filed.

⁴ The BAPCPA established a new bankruptcy chapter, Chapter 15, which relates to cross-border insolvencies.

Exemption for Actions Related to Discharge

Item 11 of the Bankruptcy Court Miscellaneous Fee Schedule currently provides that the fee for reopening a case shall not be charged “for actions related to the debtor’s discharge.” Since the enactment of the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 (BAPCPA), however, there has been some controversy about whether to charge this fee when a case is being reopened for the purposes of filing a certificate of completion of a financial management course, which is required in order to be eligible for discharge. Some courts are of the view that such reopenings fall under the “related to discharge” exception from the fee.

In order to resolve any ambiguity with regard to the exemption from the reopening fee, the Judicial Conference amended Item 11 of the Bankruptcy Court Miscellaneous Court Fee Schedule to expressly state that the fee applies to a request to reopen a case in which the court did not enter a discharge and to clarify the two situations in which the exemption from the reopening fee for “actions related to the debtor's discharge” are applicable. The two situations in which the exemption applies are: (1) to permit a party to file a complaint to obtain a determination under Rule 4007(b), and, (2) when a creditor is violating the terms of the discharge under 11 U.S.C. § 524.

New \$15 Fee for Chapter 7 Reopening

Although Item 11 of the Bankruptcy Court Miscellaneous Fee Schedule requires petitioners to pay the statutory filing fee for reopening a case, it does not require payment of other miscellaneous fees normally due at the time of filing of a new case. The \$15 fee required by Item 9 is currently not collected when a Chapter 7 case is reopened. The Judicial Conference has amended Item 11 of the Bankruptcy Court Miscellaneous Fee Schedule to add an additional \$15 to the fee for reopening a Chapter 7 case.

Item 19 - Splitting a Joint Case

- **New \$15 fee to be collected when a joint Chapter 7 case is split**

New Fee for Splitting a Chapter 7 Case

Item 19 of the Bankruptcy Court Miscellaneous Fee Schedule states that when a “joint case filed under § 302 of Title 11 is divided into two separate cases at the request of the debtor(s),” a fee equal to the current filing fee for the chapter under which the joint case was commenced shall be charged. This item requires the collection of the statutory filing fee and does not currently include any other fees such as the \$15 fee required by Item 9. The Judicial Conference amended Item 19 of the Bankruptcy Court Miscellaneous Fee Schedule to include an additional \$15 to be paid when a joint Chapter 7 case is split into two cases.

Items 15 and 21 - Filing Fees for Appeals and Fee for Direct Appeals

- **Fee for filing an appeal or a cross appeal is to be de-linked from Item 1 of the Court of Appeals Miscellaneous Fee Schedule; Fee for filing an appeal or a cross appeal to remain at \$250**
- **New fee of \$200 for direct appeals authorized by the Court of Appeals**
- **Clarification of exemption from Item 1 of Court of Appeals Miscellaneous Fee Schedule**

Remove Linkage to Court of Appeals Filing Fee/Appeal from Bankruptcy Court Decision to Remain \$250

Item 15 of the Bankruptcy Court Miscellaneous Fee Schedule establishes the fee for docketing an appeal, and Item 21 establishes the fee for docketing a cross appeal. Both fees are currently linked to Item 1 of the Court of Appeals Miscellaneous Fee Schedule, which was increased by the DRA from \$250 to \$450. The Judicial Conference has approved an amendment to remove the linkage to the Court of Appeals filing fee and to set the fee for filing an appeal or a cross appeal from a bankruptcy court decision at \$250.

New Direct Appeal Fee

The Judicial Conference also established a new fee to be included in Item 15 and Item 21 of the Bankruptcy Court Miscellaneous Fee Schedule for taking a direct bankruptcy appeal to the court of appeals. The filing of an appeal of a district court decision to the court of appeals requires payment of \$450 (Item 1 of the Court of Appeals Miscellaneous Fee Schedule). The fee for taking a direct appeal or a cross appeal from a bankruptcy court decision to the court of appeals would be only \$250 as required by Item 15 of the Bankruptcy Court Miscellaneous Fee Schedule. In order to correct this disparity, the Conference approved the establishment of an additional fee of \$200 (representing the difference between the bankruptcy appellate docketing fee and the court of appeals docketing fee) when the court of appeals authorizes a direct appeal or cross appeal.

Clarification of Exemption from Court of Appeals Filing Fee

The Conference also approved an amendment to the Court of Appeals Miscellaneous Fee Schedule Item 1, to clarify that only one docketing fee is required for a direct bankruptcy cross appeal. Thus, the current exemption from the appellate docketing fee for direct bankruptcy appeals has been expanded to include direct bankruptcy cross appeals.

Reopening and Splitting Fees

- **The fees for reopening a case and for splitting a joint case will remain linked to the statutory filing fees. The fee to reopen or split a case will be the same amount as the statutory fee for filing a case under the appropriate chapter.**

Title X of the DRA revised the statutory fees for filing a Chapter 7 and Chapter 13 bankruptcy case and also increased the fee for filing a civil action in district court. These changes to the filing fees impacted certain fees in the Bankruptcy Court Miscellaneous Fee Schedule because several of the miscellaneous fees are linked to statutory filing fees, and thus would have changed when the statutory fee changed. However, the Judicial Conference, at its March 2006 session, agreed to stay all increases in miscellaneous fees until the Court Administration and Case Management Committee and the Committee on the Administration of the Bankruptcy System had an opportunity to review the increases.

Item 11 of the Bankruptcy Court Miscellaneous Fee Schedule prescribes that a fee for reopening a case shall be collected in the same amount as the filing fee prescribed by 28 U.S.C. § 1930(a) for commencing a new case on the date of reopening. Likewise, when a joint case is split into two separate cases, Item 19 requires a fee equal to the current filing fee for the chapter under which the joint case was commenced. The Conference decided that both the fee to reopen a case and the fee to split a joint case should remain linked to the statutory fee for initiating the same type of case. Therefore, the stay imposed by the Conference in March is terminated. The fee for reopening a case will be the same as the statutory filing fee for the chapter under which the case was originally commenced. As a result of this action:

- the total of fees charged for reopening a Chapter 7 case will be \$260⁵,
- the fee for reopening a Chapter 13 case will be \$235; and
- with respect to splitting a joint chapter 7 case, the total fees will be \$260⁶;
- the fee for splitting a Chapter 11 case will remain \$1,000; and
- the fee for splitting a Chapter 13 case will be \$235.

⁵ The total fee collected for reopening a Chapter 7 case will include the statutory chapter 7 filing fee of \$245 plus the additional \$15 fee authorized by the Judicial Conference.

⁶ This amount includes the statutory filing fee of \$245 plus the additional \$15 fee authorized by the Conference.

Changes to Court of Appeals Fees

Below are descriptions of the Judicial Conference actions regarding the Court of Appeals Miscellaneous Fee Schedule.

Clarification of Exemption from Court of Appeals Filing Fee

The Judicial Conference approved an amendment to the Court of Appeals Miscellaneous Fee Schedule Item 1, to clarify that only one fee is required for a direct bankruptcy cross appeal. Thus, the current exemption from the appellate docketing fee for direct bankruptcy appeals has been expanded to include direct bankruptcy cross appeals.

Court of Appeals Miscellaneous Fee Schedule

(Issued in accordance with 28 U.S.C. §1913)

The following are fees to be charged for services provided by the courts of appeals. No fees are to be charged for services rendered on behalf of the United States, with the exception of those specifically prescribed in items 2, 4 and 5. No fees under this schedule shall be charged to federal agencies or programs which are funded from judiciary appropriations, including, but not limited to, agencies, organizations, and individuals providing services authorized by the Criminal Justice Act, 18 U.S.C. § 3006A, and Bankruptcy Administrator programs.

- (1) For docketing a case on appeal or review, or docketing any other proceeding, \$450. A separate fee shall be paid by each party filing a notice of appeal in the district court, but parties filing a joint notice of appeal in the district court are required to pay only one fee. A docketing fee shall not be charged for the docketing of an application for the allowance of an interlocutory appeal under 28 U.S.C. § 1292(b), unless the appeal is allowed. A docketing fee shall not be charged for the docketing of a direct bankruptcy appeal or a direct bankruptcy cross appeal when the fee has been collected by the bankruptcy court in accordance with Item 15 or Item 21 of the Bankruptcy Court Miscellaneous Fee Schedule.
- (2) For every search of the records of the court and certifying the results thereof, \$26. This fee shall apply to services rendered on behalf of the United States if the information requested is available through electronic access.
- (3) For certifying any document or paper, whether the certification is made directly on the document, or by separate instrument, \$9.
- (4) For reproducing any record or paper, 50 cents per page. This fee shall apply to paper copies made from either: (1) original documents; or (2) microfiche or microfilm reproductions of the original records. This fee shall apply to services rendered on behalf of the United States if the record or paper requested is available through electronic access.
- (5) For reproduction of recordings of proceedings, regardless of the medium, \$26, including the cost of materials. This fee shall apply to services rendered on behalf of the United States if the reproduction of the recording is available electronically.

- (6) For reproduction of the record in any appeal in which the requirement of an appendix is dispensed with by any court of appeals pursuant to Rule 30(f), F.R.A.P., a flat fee of \$71.
- (7) For each microfiche or microfilm copy of any court record, where available, \$5.
- (8) For retrieval of a record from a Federal Records Center, National Archives, or other storage location removed from the place of business of the court, \$45.
- (9) For a check paid into the court which is returned for lack of funds, \$45.
- (10) Fees to be charged and collected for copies of opinions shall be fixed, from time to time, by each court, commensurate with the cost of printing.
- (11) The court may charge and collect fees commensurate with the cost of providing copies of the local rules of court. The court may also distribute copies of the local rules without charge.
- (12) The clerk shall assess a charge for the handling of registry funds deposited with the court, to be assessed from interest earnings and in accordance with the detailed fee schedule issued by the Director of the Administrative Office of the United States Courts.
- (13) Upon the filing of any separate or joint notice of appeal or application for appeal from the Bankruptcy Appellate Panel, or notice of the allowance of an appeal from the Bankruptcy Appellate Panel, or of a writ of certiorari, \$5 shall be paid by the appellant or petitioner.
- (14) The court may charge and collect a fee of \$200 per remote location for counsel's requested use of videoconferencing equipment in connection with each oral argument.
- (15) For original admission of attorneys to practice, \$150 each, including a certificate of admission. For a duplicate certificate of admission or certificate of good standing, \$15.

Bankruptcy Court Miscellaneous Fee Schedule¹

Following are fees to be charged for services provided by the bankruptcy courts. No fees are to be charged for services rendered on behalf of the United States, with the exception of those specifically prescribed in items 1, 3, and 5, or to bankruptcy administrators appointed under Public Law No. 99-554, § 302(d)(3)(I). No fees under this schedule shall be charged to federal agencies or programs which are funded from judiciary appropriations, including, but not limited to, agencies, organizations, and individuals providing services authorized by the Criminal Justice Act, 18 U.S.C. § 3006A.

- (1) For reproducing any record or paper, \$.50 per page. This fee shall apply to paper copies made from either: (1) original documents; or (2) microfiche or microfilm reproductions of the original records. This fee shall apply to services rendered on behalf of the United States if the record or paper requested is available through electronic access.
- (2) For certification of any document or paper, whether the certification is made directly on the document or by separate instrument, \$9. For exemplification of any document or paper, twice the amount of the charge for certification.
- (3) For reproduction of recordings of proceedings, regardless of the medium, \$26, including the cost of materials. This fee shall apply to services rendered on behalf of the United States, if the reproduction of the recording is available electronically.
- (4) For amendments to a debtor's schedules of creditors, lists of creditors, matrix, or mailing lists, \$26 for each amendment, provided the bankruptcy judge may, for good cause, waive the charge in any case. No fee is required when the nature of the amendment is to change the address of a creditor or an attorney for a creditor listed on the schedules or to add the name and address of an attorney for a listed creditor.

¹ Issued in accordance with 28 U.S.C. § 1930(b).

- (5) For every search of the records of the bankruptcy court conducted by the clerk of the bankruptcy court or a deputy clerk, \$26 per name or item searched. This fee shall apply to services rendered on behalf of the United States if the information requested is available through electronic access.
- (6) For filing a complaint, \$250. If the United States, other than a United States trustee acting as a trustee in a case under Title 11, or a debtor is the plaintiff, no fee is required. If a trustee or debtor in possession is the plaintiff, the fee should be payable only from the estate and to the extent there is any estate realized. If a child support creditor or its representative is the plaintiff, and if such plaintiff files the form required by § 304(g) of the Bankruptcy Reform Act of 1994, no fee is required.
- (7) For filing or indexing any document not in a case or proceeding for which a filing fee has been paid, \$39.
- (8) In all cases filed under title 11, the clerk shall collect from the debtor or the petitioner a miscellaneous administrative fee of \$39. This fee may be paid in installments in the same manner that the filing fee may be paid in installments, consistent with the procedure set forth in Federal Rule of Bankruptcy Procedure 1006.
- (9) Upon the filing of a petition under Chapter 7 of the Bankruptcy Code, the petitioner shall pay \$15 to the clerk of the court for payment to trustees serving in cases as provided in 11 U.S.C. § 330(b)(2). An application to pay the fee in installments may be filed in the manner set forth in Federal Rule of Bankruptcy Procedure 1006(b).
- (10) Upon the filing of a motion to convert a case to Chapter 7 of the Bankruptcy Code, the movant shall pay \$15 to the clerk of court for payment to trustees serving in cases as provided in 11 U.S.C. § 330(b)(2). Upon the filing of a notice of conversion pursuant to Section 1208(a) or Section 1307(a) of the Code, \$15 shall be paid to the clerk of the court for payment to trustees serving in cases as provided in 11 U.S.C. § 330(b)(2). If the trustee serving in the case before the conversion is the movant, the fee shall be payable only from the estate that exists prior to conversion. For filing a motion to convert or a notice of conversion, a fee shall be charged in the amount of the difference between the current filing fee for the chapter under which the case was originally commenced and the current filing fee for the chapter to which the case is requested to be converted. If the filing fee for the chapter to which the case is requested to be converted is less than

the fee paid at the commencement of the case, no refund shall be provided. A fee shall not be assessed under this item for converting a Chapter 7 or 13 case to a Chapter 11 case as the fee for these actions is collected pursuant to statute under 28 U.S.C. § 1930(a).

- (11) For filing a motion to reopen a Bankruptcy Code case, a fee shall be collected in the same amount as the filing fee prescribed by 28 U.S.C. § 1930(a) for commencing a new case on the date of reopening. The reopening fee should be charged when a case is closed without a discharge being entered. If the motion to reopen is made for a Chapter 7 case, an additional fee of \$15 shall be paid to the clerk of the court for payment to trustees serving in cases as provided in 11 U.S.C. § 330(b)(2). For filing a motion to reopen a Chapter 15 case, a fee shall be charged in the same amount as the filing fee required under Item 16 of this schedule for commencing a new case on the date of reopening. The reopening fee will not be charged if the reopening is necessary: (1) to permit a party to file a complaint to obtain a determination under Rule 4007(b), or, (2) when a creditor is violating the terms of the discharge under 11 U.S.C. § 524. The court may waive this fee under appropriate circumstances or may defer payment of the fee from trustees pending discovery of additional assets. If payment is deferred, the fee shall be waived if no additional assets are discovered.
- (12) For each microfiche sheet of film or microfilm jacket copy of any court record, where available, \$5.
- (13) For retrieval of a record from a Federal Records Center, National Archives, or other storage location removed from the place of business of the court, \$45.
- (14) For a check paid into the court which is returned for lack of funds, \$45.
- (15) For docketing a proceeding on appeal or review from a final judgment of a bankruptcy judge pursuant to 28 U.S.C. § 158(a) and (b), \$250. A separate fee shall be paid by each party filing a notice of appeal in the bankruptcy court, but parties filing a joint notice of appeal in the bankruptcy court are required to pay only one fee. If a trustee or debtor in possession is the appellant, the fee should be payable only from the estate and to the extent there is any estate realized. Upon notice from the court of appeals that a direct appeal from the bankruptcy court has been authorized, the appellant shall pay an additional \$200.

- (16) For filing a Chapter 15 proceeding, the fee shall be the same amount as the fee for a case commenced under Chapter 11 of Title 11 as required by 28 U.S.C. § 1930(a)(3).
- (17) The court may charge and collect fees commensurate with the cost of providing copies of the local rules of court. The court may also distribute copies of the local rules without charge.
- (18) The clerk shall assess a charge for the handling of registry funds deposited with the court, to be assessed from interest earnings and in accordance with the detailed fee schedule issued by the Director of the Administrative Office of the United States Courts.
- (19) When a joint case filed under § 302 of Title 11 is divided into two separate cases at the request of the debtor(s), a fee shall be charged equal to the current filing fee for the chapter under which the joint case was commenced. If the motion to divide the case is made for a Chapter 7 case, an additional fee of \$15 shall be paid to the clerk of the court for payment to trustees serving in cases as provided in 11 U.S.C. § 330(b)(2).
- (20) For filing a motion to terminate, annul, modify, or condition the automatic stay provided under § 362(a) of Title 11, a motion to compel abandonment of property of the estate pursuant to Rule 6007(b) of the Federal Rules of Bankruptcy Procedure, or a motion to withdraw the reference of a case or proceeding under 28 U.S.C. § 157(d), \$150. No fee is required for a motion for relief from the co-debtor stay or for a stipulation for court approval of an agreement for relief from a stay. If a child support creditor or its representative is the movant, and if such movant files the form required by § 304(g) of the Bankruptcy Reform Act of 1994, no fee is required.
- (21) For docketing a cross appeal from a bankruptcy court determination, \$250. If a trustee or debtor in possession is the appellant, the fee should be payable only from the estate and to the extent there is any estate realized. Upon notice from the court of appeals that a direct cross from the bankruptcy court has been authorized, the cross appellant shall pay an additional \$200.